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# HOUSE BILL No. 1110

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-24-18-7; IC 34-24-1.

**Synopsis:** Counterfeit driving licenses. Provides that a person who counterfeits or falsely reproduces a driving license with the intent to use the license or to permit another person to use the license commits a Class D felony, instead of a Class B misdemeanor. Allows the seizure of: (1) equipment used to manufacture counterfeit driving licenses; and (2) counterfeit driving licenses; under existing civil forfeiture statutes.

**Effective:** July 1, 2001.

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January 8, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1110

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-24-18-7 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. A person who  
3       counterfeits or falsely reproduces a driving license with intent to use  
4       the license or to permit another person to use the license commits a  
5       Class ~~B misdemeanor~~ **D felony**.

6       SECTION 2. IC 34-24-1-1 IS AMENDED TO READ AS  
7       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The following  
8       may be seized:

9           (1) All vehicles (as defined by IC 35-41-1), if they are used or are  
10          intended for use by the person or persons in possession of them to  
11          transport or in any manner to facilitate the transportation of the  
12          following:

13           (A) A controlled substance for the purpose of committing,  
14           attempting to commit, or conspiring to commit any of the  
15           following:

16           (i) Dealing in cocaine or narcotic drug (IC 35-48-4-1).

17           (ii) Dealing in a schedule I, II, or III controlled substance



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- 1 (IC 35-48-4-2).  
 2 (iii) Dealing in a schedule IV controlled substance  
 3 (IC 35-48-4-3).  
 4 (iv) Dealing in a schedule V controlled substance  
 5 (IC 35-48-4-4).  
 6 (v) Dealing in a counterfeit substance (IC 35-48-4-5).  
 7 (vi) Possession of cocaine or narcotic drug (IC 35-48-4-6).  
 8 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).  
 9 (viii) Dealing in marijuana, hash oil, or hashish  
 10 (IC 35-48-4-10).  
 11 (B) Any stolen (IC 35-43-4-2) or converted property  
 12 (IC 35-43-4-3) if the retail or repurchase value of that property  
 13 is one hundred dollars (\$100) or more.  
 14 (C) Any hazardous waste in violation of IC 13-30-6-6.  
 15 (2) All money, negotiable instruments, securities, weapons,  
 16 communications devices, or any property commonly used as  
 17 consideration for a violation of IC 35-48-4 (other than items  
 18 subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1  
 19 before its repeal):  
 20 (A) furnished or intended to be furnished by any person in  
 21 exchange for an act that is in violation of a criminal statute;  
 22 (B) used to facilitate any violation of a criminal statute; or  
 23 (C) traceable as proceeds of the violation of a criminal statute.  
 24 (3) Any portion of real or personal property purchased with  
 25 money that is traceable as a proceed of a violation of a criminal  
 26 statute.  
 27 (4) A vehicle that is used by a person to:  
 28 (A) commit, attempt to commit, or conspire to commit;  
 29 (B) facilitate the commission of; or  
 30 (C) escape from the commission of;  
 31 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal  
 32 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
 33 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4).  
 34 (5) Real property owned by a person who uses it to commit any of  
 35 the following as a Class A felony, a Class B felony, or a Class C  
 36 felony:  
 37 (A) Dealing in cocaine or narcotic drug (IC 35-48-4-1).  
 38 (B) Dealing in a schedule I, II, or III controlled substance  
 39 (IC 35-48-4-2).  
 40 (C) Dealing in a schedule IV controlled substance  
 41 (IC 35-48-4-3).  
 42 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

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(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

**(10) Equipment and counterfeit driving licenses used to commit an offense under IC 9-24-18-7.**

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in cocaine or narcotic drug).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine or narcotic drug) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 3. IC 34-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) At the hearing, the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the

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1 prosecuting attorney must also show by a preponderance of the  
 2 evidence that a person who has an ownership interest of record in the  
 3 bureau of motor vehicles knew or had reason to know that the vehicle  
 4 was being used in the commission of the offense.

5 (b) If the prosecuting attorney fails to meet the burden of proof, the  
 6 court shall order the property released to the owner.

7 (c) If the court enters judgment in favor of the state, or the state and  
 8 a unit (if appropriate), the court, subject to section 5 of this chapter,  
 9 shall order delivery to the law enforcement agency that seized the  
 10 property. The court's order may permit the agency to use the property  
 11 for a period not to exceed three (3) years. However, the order must  
 12 require that, after the period specified by the court, the law  
 13 enforcement agency shall deliver the property to the county sheriff for  
 14 public sale.

15 (d) If the court enters judgment in favor of the state, or the state and  
 16 a unit (if appropriate), the court shall, subject to section 5 of this  
 17 chapter:

18 (1) determine the amount of law enforcement costs; and

19 (2) order that:

20 (A) the property, if it is not money or real property, be sold  
 21 under section 6 of this chapter, by the sheriff of the county in  
 22 which the property was seized, and if the property is a vehicle,  
 23 this sale must occur after any period of use specified in  
 24 subsection (c);

25 (B) the property, if it is real property, be sold in the same  
 26 manner as real property is sold on execution under IC 34-55-6;

27 (C) the proceeds of the sale or the money be deposited in the  
 28 general fund of the state, or the unit that employed the law  
 29 enforcement officers that seized the property; and

30 (D) any excess in value of the proceeds or the money over the  
 31 law enforcement costs be forfeited and transferred to the  
 32 treasurer of state for deposit in the common school fund.

33 (e) If property that is seized under this chapter (or IC 34-4-30.1-4  
 34 before its repeal) is transferred:

35 (1) after its seizure, but before an action is filed under section 3  
 36 of this chapter (or IC 34-4-30.1-3 before its repeal); or

37 (2) when an action filed under section 3 of this chapter (or  
 38 IC 34-4-30.1-3 before its repeal) is pending;

39 the person to whom the property is transferred must establish an  
 40 ownership interest of record as a bona fide purchaser for value. A  
 41 person is a bona fide purchaser for value under this section if the  
 42 person, at the time of the transfer, did not have reasonable cause to

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1 believe that the property was subject to forfeiture under this chapter.  
2 (f) If the property seized was:  
3 (1) a counterfeit driving license made in violation of  
4 IC 9-24-18-7; or  
5 (2) an unlawful telecommunications device (as defined in  
6 IC 35-45-13-6) or plans, instructions, or publications used to  
7 commit an offense under IC 35-45-13;  
8 the court may order the sheriff of the county in which the person was  
9 convicted of an offense under **IC 9-24-18-7 or** IC 35-45-13 to destroy  
10 as contraband or to otherwise lawfully dispose of the property.

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